

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.38/Del./2018  
Assessment Year 2009-2010

The Income Tax Officer, Ward-1(1), A-2/D, Aayakar Bhawan, Sector-24, Noida. PIN-201 301 (U.P.)	VS	Shri Anand Kumar, Bundelkhand, Jewar, GB Nagar. C/o. CA Sanjiv Tandan, Advocate, B-2/302, Stellar Sigma Apartments, Sigma-IV, Greater Noida. PIN 201 310, PAN BUQPK5641C
(Appellant)		(Respondent)

For Revenue :	Shri S.L. Anuragi, Sr. D.R.
For Assessee :	Shri Sandeep Manaktala, C.A.

Date of Hearing :	09.07.2018
Date of Pronouncement :	09.07.2018

**ORDER**

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-1, Noida, dated 31.07.2017, for the A.Y. 2009-2010.

2. In this case, the A.O. made addition of Rs.11 lakhs on account of unexplained investment. The Ld. CIT(A), allowed the appeal of assessee on legal issue because the A.O. framed

the assessment without assuming the jurisdiction under section 143(2) of the I.T. Act, 1961.

3. Admittedly, the tax effect in the present appeal is less than Rs.10 lakhs. Vide Circular No.21/2015 dated 10<sup>th</sup> December, 2015 issued by CBDT, it has been directed that the Department shall not file appeal before the Tribunal in case where the tax effect does not exceed the monetary limit of Rs.10 lakhs. It is also directed that this instruction will apply retrospectively to pending appeals and appeals to be filed henceforth in Tribunals. Pending appeals below the specified tax limit may be withdrawn/not pressed. The Ld. D.R. in view of the Board's Circular above did not press the departmental appeal. The case of the Department would not fall in the exceptions provided in the above Board Circular. In the result, the Departmental appeal is not maintainable as the appeal is filed against the Board instructions referred to above and therefore, the appeal of the Department is liable to be dismissed.

4. In the result, appeal of the Department is dismissed.

Order pronounced in the open Court.

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 09<sup>th</sup> July, 2018

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.